

Message Text

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USEEC

FOLLOWING REPEAT MADRID 4924 SENT ACTION SECSTATE INFO PARIS
VIENNA MAY 05.
QUOTE C O N F I D E N T I A L MADRID 04924

PARIS ALSO FOR USOECD; VIENNA ALSO FOR USIAEA

E.O. 11652: GDS
TAGS: ENRG, MNUC, PFOR, SP
SUBJECT: U.S. NON-PROLIFERATION ACT OF 1978

REF: STATE 86143; MADRID 3635

1. SOME 25 REPRESENTATIVES OF SPANISH GOVERNMENT (INCLUDING DIRECTOR GENERAL OF ENERGY LEONATO AND MINISTRY OF FOREIGN AFFAIRS NUCLEAR ENERGY ADVISOR ANTELO DE VELO), SPANISH UTILITIES AND U.S. FIRMS ACTIVE IN SPANISH NUCLEAR INDUSTRY ATTENDED MAY 3 PRESENTATION BY DEPARTMENT REPRESENTATIVE DEAN H. COOPER, OES/NET/EIC ON PROVISIONS OF NUCLEAR NON-PROLIFERATION ACT OF 1978 (NNPA) AND THE REGULATIONS AND PROCEDURES BEING DEVELOPED TO IMPLEMENT THAT ACT. COOPER PLACED PARTICULAR EMPHASIS ON CONFIDENTIAL

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THE INTENT OF THE NNPA TO CONFIRM THE RELIABILITY OF THE U.S. IN MEETING ITS COMMITMENTS TO NATIONS WHICH ADHERE TO EFFECTIVE NON-PROLIFERATION POLICIES BY ESTABLISHING PROCEDURES TO FACILITATE THE TIMELY PROCESSING OF REQUESTS FOR SUBSEQUENT ARRANGEMENTS AND EXPORT LICENSES. TO THAT END, THE PROCEDURES NOW BEING DEVELOPED WOULD TAKE OPTIMUM ADVANTAGE OF THE NNPA'S PROVISIONS FOR UTILIZING EXECUTIVE BRANCH FINDING OF NO MATERIALLY CHANGED CIRCUMSTANCES SINCE ISSUANCE OF A PREVIOUS LICENSE, FOR THE FILING OF CONSOLIDATED EXPORT

LICENSE APPLICATIONS, AND FOR THE GENERAL LICENSING OF EXPORTS OF COMPONENTS FOR NUCLEAR FACILITIES WHICH HAVE PREVIOUSLY BEEN SPECIFICALLY LICENSED. A LIVELY ROUND TABLE DISCUSSION FOLLOWED PRESENTATION, CONTINUED DURING AFTERNOON SESSION AND FOCUSED LARGELY ON 1) CONCERN OF SPANISH UTILITIES THAT U.S. COULD NO LONGER BE DEPENDED ON FOR RELIABLE SUPPLY OF NUCLEAR MATERIALS IN VIEW OF CHANGE IN EMPHASIS OF U.S. NON-PROLIFERATION POLICY, AS REFLECTED IN THE NNPA, AND 2) THE ASSOCIATED CONCERN OF U.S. NUCLEAR FIRMS THAT SPANISH NUCLEAR MARKET IS BEING TAKEN OVER BY GERMANS AND FRENCH.

2. FOLLOWING POINTS WERE EMPHATICALLY, BUT POLITELY, RAISED BY SPANISH UTILITY REPRESENTATIVES DURING PM DISCUSSION SESSION, IN WHICH GOVERNMENT OFFICIALS REGRETABLELY WERE UNABLE (OR DID NOT CHOOSE) TO PARTICIPATE:

-- CONCEPT OF "TIMELY WARNING" IN EVENT OF ANY SAFEGUARD VIOLATION IS GIVEN A PROMINENT POSITION IN THE NNPA, WHICH HAS THE EFFECT OF DENYING BENEFITS OF REPROCESSING, BREEDERS, AND URANIUM ENRICHMENT IN OPPOSITION TO SPIRIT OF BOTH U.S. AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION AND NPT (JUSTICE PARKER WINDSCALE
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REPORT CITED AS EVIDENCE), AS WELL AS RUNNING COUNTER TO U.S. ASSURANCES THAT RESULTS OF INFCE WOULD NOT BE PREJUDGED. COOPER AND EMBOFF RESPONDED TO EFFECT THAT AGREEMENT AND NPT CONTAINED PROVISIONS IMPOSING OBLIGATION ON U.S. AND COOPERATING COUNTRIES TO AVOID CONTRIBUTING TO FURTHER SPREAD OF NUCLEAR WEAPONS WHICH OVERRODE ANY IMPLIED COMMITMENT TO UNRESTRAINED TRANSFER OR DEVELOPMENT OF SENSITIVE TECHNOLOGIES.

-- SINCE EUROPEAN COUNTRIES ARE UNITED IN OPPOSITION TO U.S. DECISION TO DEFER DEVELOPMENT OF REPROCESSING AND BREEDER REACTORS, AND IN VIEW OF FACT THAT SPAIN APPEARS HEADED FOR EEC MEMBERSHIP BY 1980-81, SPAIN LOGICALLY SHOULD JOIN WITH EEC/EURATOM IN OPPOSING THRUST OF U.S. NUCLEAR POLICY CHANGES. COOPER RESPONDED THAT, AS A MATTER OF FACT, MOST EUROPEAN COUNTRIES SHARED U.S. CONCERNS OVER DANGER THAT WIDESPREAD NATIONAL DEVELOPMENT OF SENSITIVE TECHNOLOGIES WOULD CONTRIBUTE TO PROLIFERATION RISKS.

-- SPAIN HAS IN PAST RELIED ALMOST EXCLUSIVELY ON U.S. FOR GUIDANCE IN NUCLEAR MATTERS AND FOR NUCLEAR SUPPLIES, BUT SINCE EUROPE HAS ALREADY DECIDED ON "CLOSED FUEL CYCLE" SPAIN MUST NOW MAKE FUNDAMENTAL DECISION -- ON THE BASIS OF POLITICAL FACTORS AS WELL AS ON ECONOMICS -- AS TO WHETHER TO CONTINUE FOLLOWING U.S. LEAD. COOPER RESPONDED THAT EUROPEAN COUNTRIES ARE ACTIVELY COOPERATING

IN INFCE STUDIES FROM WHICH DECISIONS ON FUEL CYCLE WOULD LOGICALLY FLOW.

-- SINCE TO SPANISH IT APPEARS THAT U.S. INTENTIONALLY DELAYED APPROVAL OF SPENT FUEL RETRANSFER REQUEST IN ORDER TO PUT PRESSURE ON SPAIN TO PROVIDE INTERIM ASSURANCES RE USE OF NON-U.S. FUEL IRRADIATED IN U.S. SUPPLIED REACTORS, THEY FEAR THAT SAME TYPE OF PRESSURE WILL BE EXERTED IN FUTURE, AND, THEREFORE, DISCOUNT CONFIDENTIAL

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CLAIMS THAT U.S. WILL BE RELIABLE SUPPLIER. COOPER RESPONDED THAT TO HIS PERSONAL KNOWLEDGE THERE HAD BEEN NO APPROVAL DELAYS FOR SUCH PURPOSE AND NNPA SPECIFICALLY PROVIDED FOR TIMELY PROCESSING OF REQUESTS.

-- SPANISH VIEW REQUIREMENT IN NNPA FOR RENEGOTIATION OF AGREEMENTS FOR COOPERATION AS SYMPTOMATIC OF A UNIVERSAL (NOT ONLY U.S.) DISREGARD OF PRINCIPLES OF "RULE OF LAW" AND "SANCTITY OF CONTRACTS." COOPER RESPONDED TO EFFECT THAT HE UNDERSTOOD THAT IT HAD LONG BEEN AN ACCEPTABLE PRACTICE IN MOST COUNTRIES -- PROBABLY INCLUDING SPAIN -- FOR CONTRACTING PARTIES TO SEEK RENEGOTIATION WHENEVER CONDITIONS UNDER WHICH CONTRACT WAS ORIGINALLY CONCLUDED CHANGE IN FUNDAMENTAL RESPECTS.

-- WITH REGARD TO REPROCESSING, U.S. POLICY IS DISCRIMINATORY IN ACCEPTING REPROCESSING BY FRANCE AND UK AND POSSIBLY JAPAN, WHILE TRYING TO DENY IT TO OTHER COUNTRIES. COOPER RESPONDED THAT U.S. HAD DEFERRED COMMERCIAL REPROCESSING AND WAS UNIFORMLY ATTEMPTING TO PERSUADE ALL OTHER COUNTRIES TO DEFER FURTHER DEVELOPMENT OF REPROCESSING AND TO EMPLOY OTHER MORE PROLIFERATION RESISTANT MEANS OF DISPOSING OF SPENT NUCLEAR FUEL.

-- SINCE THE U.S. IS TREATING NPT SIGNATORIES THE SAME AS SPAIN WITH REGARD TO RECOVERY OF PLUTONIUM THROUGH REPROCESSING FOR RECYCLE IN U.S. SUPPLIED LIGHT WATER REACTORS AND FUTURE USE FOR FUELING FAST BREEDER REACTORS, THERE IS NO INCENTIVE FOR SPAIN TO SIGN THE NPT. COOPER RESPONDED TO EFFECT THAT ENCOURAGEMENT FOR UNIVERSAL RATIFICATION OF THE NPT IS CENTRAL TO THE NNPA.

-- SPAIN PREVIOUSLY DECIDED TO SEEK NON-U.S. SUPPLY OF CONFIDENTIAL

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ENRICHMENT SERVICES (USSR AND EURODIF) AFTER THE U.S. UNILATERALLY DECIDED TO OFFER A NEW TYPE OF URANIUM ENRICHMENT CONTRACT ON A "TAKE IT OR LEAVE IT" BASIS AND IT PROBABLY WAS NOT JUST COINCIDENTAL THAT SPANISH

DECISION TO PURCHASE TWO NUCLEAR PLANTS FROM FRG FOLLOWED CLOSELY THE RECENT SHIFT IN U.S. NUCLEAR POLICY, ALTHOUGH A NUMBER OF FACTORS WOULD HAVE INFLUENCED THIS DECISION. U.S. REPS RESPONDED TO EFFECT THAT THEY HOPED OCCASIONAL PAST PERTURBATIONS IN U.S. NUCLEAR POLICIES RESULTING FROM CHANGING CONDITIONS, AND/OR DEBATE AMONG U.S. POLICY-MAKERS AND MEMBERS OF CONGRESS OVER THE MOST APPROPRIATE RESPONSE TO CHANGING CIRCUMSTANCES, WOULD NOT LEAD SPANISH TO UNDULY DISRUPT LONGSTANDING AND MUTUALLY BENEFICIAL COOPERATION IN NUCLEAR MATTERS.

-- PROVISION OF TITLE V OF NNPA WITH REGARD ASSISTANCE TO LDC'S IN DEVELOPMENT OF "NON-NUCLEAR ENERGY RESOURCES" WAS RAISED IN CONTEXT THAT ABSENCE OF SPECIFIC PROVISION OF NUCLEAR ASSISTANCE REVEALED INTENTION OF U.S. TO AVOID ASSISTING THIRD WORLD INDUSTRIAL DEVELOPMENT WHICH IS DEPENDENT ON AVAILABILITY OF LARGE HIGH-TEMPERATURE ENERGY SOURCES, SUCH AS NUCLEAR. COOPER RESPONDED THAT TO THE CONTRARY, THE INTENT OF TITLE V WAS TO PROVIDE FOR COOPERATIVE PROGRAMS TO ASSIST DEVELOPING COUNTRIES IN MEETING ALL OF THE ENERGY NEEDS REQUIRED FOR THEIR DEVELOPMENT, BUT THAT A SUBSTANTIAL PORTION OF THE BASIC ENERGY NEEDS OF DEVELOPING COUNTRIES WAS FOR LOW-TEMPERATURE APPLICATION THAT COULD CLEARLY BE MET THROUGH USE OF SOLAR AND OTHER RENEWABLE ENERGY RESOURCES, THEREBY REDUCING THEIR DEPENDENCE ON PETROLEUM AND NUCLEAR FUELS.

-- PROVISION OF SECTION 407 OF NNPA IN REGARD ENVIRONMENTAL PROTECTION WAS RAISED AS SIGNAL OF POSSIBLE FUTURE U.S. PRESSURE FOR SPAIN TO CONFORM TO U.S. STANDARDS. U.S. REPS RESPONDED THAT INTENTION OF PROVISION CONFIDENTIAL

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WAS SIMPLY TO ESTABLISH FRAMEWORK FOR COOPERATION IN ENVIRONMENTAL PROTECTION.

3. DURING LIVELY DISCUSSION, COOPER AND EMBOFF REITERATED MANY POSITIVE ASPECTS OF U.S. NUCLEAR POLICY AND NNPA, WITH SPECIAL EMPHASIS ON PROVISIONS CONFIRMING THAT 1) U.S. INTENDS TO BE RELIABLE SUPPLIER AND 2) U.S. DECISION TO DELAY THE FURTHER NATIONAL DEVELOPMENT OF REPROCESSING AND BREEDER REACTORS DID NOT PREJUDGE THE RESULTS OF INFCE. HOWEVER, MAJORITY OF SPANISH INDUSTRY REPRESENTATIVES APPEARED TO REMAIN SKEPTICAL AND TO SHARE IN GENERAL SPANISH GOVERNMENT ATTITUDE TOWARDS U.S. NON-PROLIFERATION INITIATIVES, AS REVEALED BY PAST STATEMENTS OF GOS REPRESENTATIVES ON SEVERAL OF THE SAME POINTS MENTIONED ABOVE. NEVERTHELESS, THE OVERALL TONE OF THIS MEETING INDICATED THAT MAJORITY OF SPANISH UTILITY REPRESENTATIVES FEEL THAT A MUTUALLY ACCEPTABLE SETTLEMENT IN REGARD TO FUTURE U.S.-SPANISH NUCLEAR ENERGY

COOPERATION COULD ULTIMATELY BE WORKED OUT SINCE THERE IS A RESERVOIR OF GOOD WILL ON BOTH SIDES. MOREOVER, LIKE GOS OFFICIALS IN PAST, UTILITY REPS REPEATEDLY EXPRESSED THEIR APPRECIATION OF HIGH QUALITY OF U.S. TECHNOLOGY AND THEIR STRONG DESIRE TO CONTINUE AND EXPAND COOPERATION IN THE FUTURE.

4. UNFORTUNATELY, REPRESENTATIVES OF SPANISH GOVERNMENT AGENCIES APPEARED RETICENT DURING AM SESSION ABOUT DISCUSSING PROCEDURES WITHIN GOS FOR PROCESSING NUCLEAR RELATED EXPORT/IMPORT REQUESTS AND, DUE TO PRESS OF OTHER BUSINESS RELATED TO RELEASE OF NATIONAL ENERGY PLAN EXCUSED THEMSELVES FROM ATTENDANCE AT PM SESSION. WHEN QUESTION OF GOS PROCEDURES WAS RAISED WITH UTILITY REPS DURING AFTERNOON SESSION, THEY WERE SOMEWHAT CONFIDENTIAL

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CRITICAL OF GOVERNMENT OFFICIALS, REFERRING TO THE APPARENT LACK OF ANY ESTABLISHED PROCEDURES AS A MAJOR PROBLEM FOR THE NUCLEAR POWER INDUSTRY. SEVERAL WERE EVEN MORE CRITICAL IN PRIVATE COMMENTS TO BOTH COOPER AND EMBOFF, IMPLYING THAT OFFICIALS CHARGED WITH NUCLEAR RELATED RESPONSIBILITIES ARE EITHER COMPLETELY LACKING IN PRACTICAL KNOWLEDGE OF THE PROBLEMS INVOLVED, OR ARE ABSORBED IN MORE BUREAUCRATICALLY REWARDING PURSUITS.

5. DETAILS OF GOS NATIONAL ENERGY PLAN, BROAD OUTLINES OF NUCLEAR PORTION OF WHICH WERE PRIVATELY CONVEYED TO COOPER AND EMBOFF IN MARGINS OF MEETING, WILL BE SUMMARIZED IN SEPTEL.

6. COMMENT: EMBASSY BELIEVES THAT EXCHANGE WITH SPANISH REPRESENTATIVES WAS MOST VALUABLE TO AND MUCH APPRECIATED BY THOSE WHO ATTENDED. NOT ONLY DID THEY GAIN A NEEDED INSIGHT INTO PROVISIONS OF NNPA AND AN UNDERSTANDING OF PROCEDURES AND REGULATIONS BEING DEVELOPED TO IMPLEMENT THIS VERY SIGNIFICANT NEW LEGISLATION, BUT THEY WERE OBVIOUSLY PLEASED TO HAVE AN OPPORTUNITY TO EXPRESS THEIR CONCERNS ABOUT NUCLEAR POLICY INITIATIVES, AS REFLECTED IN NNPA, DIRECTLY TO DEPARTMENT REPRESENTATIVES INVOLVED IN DEVELOPMENT AND IMPLEMENTATION OF THAT POLICY. EMBASSY PLANS TO MAINTAIN CONTACTS WITH INDUSTRY OFFICIALS WHO PARTICIPATED IN DISCUSSION, AS WELL AS KEY GOS AUTHORITIES, IN EFFORT TO CONTINUE PROCESS OF CLARIFYING COOPERATIVE THRUST OF NNPA, AS WELL AS TO ASSIST WITH RESOLUTIONS OF ANY GOS PROCEDURAL PROBLEMS THAT MIGHT REFLECT ADVERSELY ON U.S. IMAGE AS RELIABLE NUCLEAR SUPPLIER. EATON UNQUOTE VANCE

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